

(b) *Expedited processing.* A person satisfying the requirements of paragraph (a) of this section may request expedited processing at the time of the initial request or at a later time by:

(1) Demonstrating a compelling need as defined in 5 U.S.C. 552(a)(6)(E)(v);

(2) Clearly identifying the request as an “Expedited Freedom of Information Act Request” in the body of the submission; and

(3) Certifying the statement of compelling need to be true and correct to the best of the requester’s knowledge and belief. At its discretion, the Commission may waive the requirement for certification.

§ 3004.42 Tracking of requests.

(a) Upon receipt of a request, the Commission shall assign a unique tracking number to the request and within 3 days (excluding Saturdays, Sundays and legal holidays) provide that number to the person making the request.

(b) Any person with a tracking number may call or e-mail the Commission’s Office of Public Affairs and Government Relations (PAGR) to check the status of a request. PAGR may be e-mailed at *PRC-PAGR@prc.gov* or called at 202-789-6800.

§ 3004.43 Response to requests.

(a) Within 20 days (excluding Saturdays, Sundays and legal holidays) after receipt of a request for a Commission record, the Secretary or Assistant Secretary will notify the requester of its determination to grant or deny the request.

(b) *Granting request.* If granting the request, the Secretary, or Assistant Secretary will notify the requester of any fees that must be paid.

(c) *Partial granting of request.* If the Commission is unable to grant the request in its entirety, any reasonably segregable portion of the request shall be provided, with deleted portions treated as specified in paragraph (d) of this section, and the Secretary or Assistant Secretary will notify the requester of any fees that must be paid.

(d) *Denying request.* If denying the request, in whole or in part, the Secretary or Assistant Secretary will inform the requester in writing of:

(1) The reason for the denial, including each exemption used as a basis for withholding of the records sought and, if applicable, the harm to an interest protected by a statutory exemption;

(2) An estimate of the volume of requested matter that was denied:

(i) If disclosure of a record has been partially denied, the amount of information deleted will be indicated on the released portion if technically feasible; and

(ii) If revealing the amount or location of a denied record will harm an interest protected by an exemption, then the description of the amount or location of deleted information shall be withheld.

(3) The right to appeal the denial to the Commission within 1 year.

(e) *Expedited processing.* Within 10 days (excluding Saturdays, Sundays and legal holidays) after receipt of a request for expedited processing, the Secretary or Assistant Secretary will:

(1) Grant the request for expedited processing and process the request for records as soon as practicable; or

(2) Deny the request for expedited processing by informing the individual of:

(i) The denial in writing;

(ii) The right to appeal the denial to the Commission in writing; and

(iii) The procedures for appealing the denial.

(3) Any request for records that has been denied expedited processing will be processed in the same manner as a request that did not seek expedited processing.

(f) Where a compelling need is not shown in an expedited request as specified in § 3004.41(b)(1), the Commission may grant requests for expedited processing at its discretion.

§ 3004.44 Appeals.

(a) The Commission may review any decision of the Secretary or Assistant Secretary on its own initiative.

(b) A requester who seeks to appeal any denial must file an appeal with the Commission.

(c)(1) The Commission will grant or deny the appeal in writing within 20 days (excluding Saturdays, Sundays and legal holidays) of the date the appeal is received. If on appeal the denial

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of the request for records is upheld, the Commission will notify the requester of the provisions for judicial review of that determination pursuant to 5 U.S.C. 552(c).

(2) The Commission will expeditiously consider an appeal of a denial of expedited processing.

§ 3004.45 Extension of response time limit.

(a) The Commission may extend the time limit for a response at the request stage and at the appeal stage up to 10 working days due to unusual circumstances as specified in 5 U.S.C. 552(a)(6)(B)(iii).

(b) The Commission will:

(1) Notify the requester of any extension and the reason for the extension in writing; and

(2) Provide the requester with an opportunity to limit the scope of the request or to arrange an alternative timeframe for processing the request or a modified request. The applicable time limits are not tolled while the Commission waits for a response from the requester under this subsection.

§ 3004.50 Fees—definitions as used in this part.

Commercial use means a request from or on behalf of a person seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining the applicability of this term, the use to which a requester will put the document is considered first; where reasonable doubt exists as to the use, the Commission may seek clarification before assigning the request to a category.

Direct costs means the expenditures the Commission incurs in searching for, duplicating, and, where applicable, reviewing documents to respond to a request. They include (without limitation) the salary of the employee(s) performing work (the basic pay rate of such employee(s) plus 16 percent to cover benefits).

Duplication means copying the documents necessary to respond to a request. Such copies may be paper, microform, audiovisual, or machine-readable.

Educational institution means a pre-school, a public or private elementary or secondary school, an institution of graduate or undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

Noncommercial scientific institution means an institution, not operated on a commercial basis (as referenced above), which is operated solely for the purpose of conducting scientific research whose results are not intended to promote any particular product or industry.

Representative of the news media means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term “news” means information that is about current events or that would be of current interest to the public. Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase or by subscription or by free distribution to the general public. These examples are not all inclusive and may include alternate media to disseminate news. A freelance journalist shall be regarded as working for a news media entity if the journalist can demonstrate a solid basis for expecting publication through that entity (e.g., by a publication contract or prior publication record), whether or not the journalist is actually employed by the entity.

Review means examining documents located in response to a request to determine whether any portion is exempt from disclosure, and processing or preparing documents for release, but not determination of general legal or policy issues regarding application of exemptions.

Search includes all time spent looking for material responsive to a request, including identification of pages or lines within documents. The term